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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,339	11/24/2003	Joel Checkalski	TLR-5157 US	3626
7590	03/28/2006		EXAMINER	
Tipton L. Randall 19371 55th Avenue Chippewa Falls, WI 54729			BRADEN, SHAWN M	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/719,339	CHECKALSKI, JOEL
	Examiner Shawn M. Braden	Art Unit 3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 12-17 and 21 is/are allowed.
- 6) Claim(s) 1-11, 20 and 28 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: ____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/24/2003</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1,12,21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 1 recites the limitation "the linear interior vessel" in line 6. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 3, Examiner does not understand how interior vessel sidewall section is separated from the outer vessel and extends therefrom.
5. Claim 12 recites the limitation "the linear interior vessel" in line 6. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 21 recites the limitation "the linear interior vessel" in line 6. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4,7-10,18&19 are rejected under 35 U.S.C. 102(b) as being anticipated by Ward (USPN 2,026,449).

With respect to Claim 1, Ward shows. A two-compartment drinking vessel for consuming separate liquids comprising: a outer drinking vessel (1) having a closed bottom section (13), a generally vertical sidewall section (3) intersecting the outer vessel (1) bottom section (13), the sidewall section with an upper rim (7) there around, the outer vessel having an open top; and

An inner, closed bottom, linear vessel (2) with a sidewall section (4) having an upper rim (11) there around, the inner vessel (2) having an open top, the linear interior vessel (2) sidewall (4) section extending essentially diagonally (fig. 4) from adjacent a selected point on the outer vessel upper rim to a selected point adjacent the intersecting sidewall and bottom sections (13) of the outer vessel (1)

Whereby liquids poured into the outer vessel and inner vessel are separately contained until the two-compartment vessel is tilted to elevate the vessel bottom relative to the selected point on the outer vessel upper rim adjacent the inner vessel sidewall section, the liquid contained by the inner vessel flowing therefrom prior to the liquid contained in the outer vessel flowing therefrom (col. 1 ln. 15-20).

With respect to claim 2, Ward shows the linear interior vessel (2) sidewall section (10) contacts the selected point (5) on the outer vessel upper rim (7) and extends essentially diagonally therefrom (fig. 4). Examiner notes for selected point could be any point chosen, for this case examiner chose point (5).

With respect to claim 3, to the extent the claim can be understood Ward shows the linear interior vessel (2) sidewall section (4) is separated from the selected point, examiner defines selected point 180 degrees around the rim from point (5), on the outer vessel upper rim (7) and if one would draw an imaginary line to connect the defined points they extend essentially diagonally therefrom. Also Ward discloses "that these wall portions (3) or grooves (16) may be reversely inclined with respect to wall surface (10) so as to further retard the flow of liquid from the outer container with respect to the accelerated flow of fluid from the inner container if desired," (page 2 ln. 4-10).

With respect to claim 4, Ward shows a supporting wall (16) between the inner vessel sidewall (4) section and the outer vessel sidewall (3) section.

With respect to claim 7, Ward shows the inner linear vessel (2) is cylindrical (fig. 1).

With respect to claim 8, Ward discloses the inner linear vessel (2) is conical with an internal diameter decreasing with increasing distance from the open top thereof (col. 2 ln. 33-36).

With respect to claim 9,10,18,19 Ward shows the outer vessel (1) and the inner vessel (2) are fabricated from a transparent material being glass as stated in Wards title.

#### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-11& 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (USPN 2,026,449)

Ward discloses the invention substantially as claimed. However Ward does not disclose transparent material, glass or Polymeric Resin.

It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a transparent material, glass or Polymeric Resin in order to lower cost, manufacture quicker and easier.

#### ***Allowable Subject Matter***

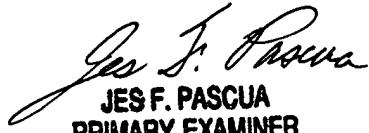
9. Claims 12-16 & 21 are allowed.
10. Claims 5&6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Braden whose telephone number is (571)272-8026. The examiner can normally be reached on Mon-Thurs 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JES F. PASCUA  
PRIMARY EXAMINER

smb